Remarks

I. Explanation of Amendments

Upon entry of the foregoing amendments, claims 1-11 are pending in the application, with claims 1, 5 and 11 being the independent claims. Claims 5-10 have been withdrawn by the Examiner. Claims 1 and 4 and withdrawn claim 5 have been amended.

By the foregoing amendments, the specification has been amended to include a reference to the benefit application in the first sentence of the specification. A reference to the benefit application was present in the Application Data Sheet submitted with the application as filed and thus does not add new matter. The specification has also been amended to insert "leucine" in the Markush group representative of X for Chemical Formula I at page 10, lines 15-18 of the application as filed (WO 2004/048407 A1). This amendment was made to correct an inadvertent mistake and is supported in the specification, for example, at page 11, lines 15-25, where the amino acid leucine appears at the positions X_2, X_5, X_6, X_{10} and X_{17} in one embodiment of chemical formula I.

Claims 1 and 4 and withdrawn claim 5 are sought to be amended. Claim 1 has been amended to include "leucine" in the Markush group representative of X for Chemical Formula I. This amendment to claim 1 is supported, for example, at page 11, lines 15-25 of the present specification. Claim 1 has also been amended to place the Markush groups in proper U.S. format and to delete subject matter. The amendment to claim 4 is sought to correct a grammatical error. The amendment to withdrawn claim 5 is sought to delete subject matter.

Applicants respectfully submit that these amendments place the application in condition for allowance and do not raise any new issue requiring further search or examination. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

II. Priority

The Examiner has alleged that Applicants have not complied with 37 C.F.R. § 1.78(a)(ii) and (a)(5)(ii) by failing to include a reference to the benefit application in the first sentence of the specification or in the Application Data Sheet within the allotted time period. The Examiner's statement was made in error. Applicants did include a reference to the benefit application in the Application Data Sheet when the captioned application was filed. Applicants have attached a copy of the Application Data Sheet submitted by Applicants on May 20, 2005, as downloaded from PAIR. Thus, Applicants respectfully request that the Examiner acknowledge that Applicants have complied with 37 C.F.R. § 1.78(a)(ii) and (a)(5)(ii).

The Examiner has denied Applicants' claim for benefit of prior Application No. PCT/KR02/02195, filed November 22, 2002. The Examiner alleges that the captioned application was filed on October 25, 2005 after a lapse of 35 months and 3 days after the filing of PCT/KR02/02195, which is later than the requirement to file the application 30 months from the priority date. The Examiner's statement was made in error. Applicants furnished a copy of the international application and a translation thereof, and paid the

national fee, to the designated Office in the U.S. on May 20, 2005, which was not later than the expiration of 30 months from the priority date as required by 37 C.F.R. § 1.495(b). Thus, Applicants respectfully request that the Examiner accept Applicants' claim for benefit of prior Application No. PCT/KR02/02195, filed November 22, 2002.

III. Rejections under 35 U.S.C. § 112

Claims 1-4 and 11 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicants elected the species SEQ ID NO:1, wherein the amino acids X_2, X_5, X_6, X_{10} and X_{17} equal leucine. However, the amino acid leucine does not appear in the Markush group of the X variable in chemical formula I of claim 1. Applicants thank the Examiner for noticing this inadvertent mistake. Applicants have amended both the specification and claim 1 to include the amino acid leucine in the Markush group of the X variable in chemical formula I. These amendments are supported in the specification at page 11, lines 15-25, where the amino acid leucine appears at positions X_2, X_5, X_6, X_{10} and X_{17} in chemical formula I.

Additionally, claims 1-4 and 11 were rejected under 35 U.S.C. § 112, second paragraph, because the specification as disclosed allegedly does not provide a proper definition for the term "derivatives thereof" when referring to the amino acids, such as what modifications are made to amino acids to render them derivatives. Applicants respectfully traverse the rejection. However, to facilitate prosecution of this application, claim 1 has been amended to delete the term "derivates thereof." Applicants respectfully request that the rejections under 35 U.S.C. § 112, second paragraph, with respect to claims 1-4 and 11 be withdrawn.

IV. Rejections under 35 U.S.C. § 102

Claim 4 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Jang *et al.* (2002, FEBS letters, 521, 81-86). The Examiner also alleged that the same rejection would apply to claims 1-3 and 11 if the claims are amended to include the amino acid leucine in the Markush group. As discussed above, the Examiner improperly denied Applicants priority to the November 22, 2002 international filing date. Thus, because Jang *et al.* was published less than one year before the priority date of the captioned application, the proper rejection is under 35 U.S.C. § 102(a). Applicants respectfully traverse the rejection.

Applicants respectfully submit that the Jang *et al.* publication describes Applicants' own work. Where Applicants are co-authors of a publication cited against their application, the Applicants may overcome the rejection by filing a specific affidavit or declaration under 37 C.F.R. § 1.132, establishing that the article is describing Applicants' own work. An affidavit or declaration by Applicants alone indicating that Applicants are the sole inventors and that the other co-authors were merely working under their direction is sufficient to remove the publication as a reference under 35 U.S.C. § 102(a). *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982). *See also* M.P.E.P. § 715.01(c).

Submitted herewith is a Declaration Under 37 C.F.R. § 1.132, executed by the co-inventors of the captioned application, which establishes that Jang *et al.* describes the Applicants' own work, that the Applicants are the sole inventors of both the presently claimed invention and the invention described in Jang *et al.*, and that the other co-authors

of Jang *et al.*, specifically Young-Shin Lee and Myung-Hee Nam, were merely working under the direction of co-inventors In-Hee Lee, Seok-Min Son, Woong-Sik Jang and Kyu-Nam Kim. As a result of Applicants' Declaration Under 37 C.F.R. § 1.132, Applicants respectfully request that Jang *et al.* be removed as a prior art reference under 35 U.S.C. § 102(a).

Upon consideration of the above, Applicants respectfully request that the rejection of claims 1-4 and 11 under 35 U.S.C. § 102(a) in view of Jang *et al.* be withdrawn. Applicants also request that the restriction requirement as to the linked inventions I-V in claim 11 be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) be entitled to examination in the captioned application, as provided in the Restriction Requirement, dated October 16, 2007.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: May 5, 2008

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